

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

RETHINK35, et al.,

Plaintiffs,

v.

TEXAS DEPARTMENT OF
TRANSPORTATION,

Defendant.

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CIVIL ACTION NO. 1:24-CV-00092-DII

AMENDED JOINT PROPOSED SCHEDULING ORDER

Pursuant to the Court's August 14, 2024, Order (Dkt. No. 31), and per Magistrate Judge Howell's instruction during the September 9, 2024 Initial Pretrial Conference, the following Amended Joint Proposed Scheduling Order is issued by the Court:

1. The parties agree that alternative dispute resolution is not appropriate in this case.
2. This is a proceeding under the Federal Administrative Procedure Act challenging completion of appropriate National Environmental Policy Act decision making and documentation for a highway project and as such is not expected to benefit from settlement discussions.
3. The parties do not consent to proceed before a United States Magistrate Judge.
4. Defendant Texas Department of Transportation (TxDOT) filed its Notice of Lodging the Administrative Record on June 11, 2024 (Dkt. No. 28).
5. On June 28, 2024, TxDOT's counsel emailed Plaintiffs' counsel to request the parties begin putting together a briefing schedule.

6. On June 28, 2024, Plaintiffs' counsel responded and requested supplementation of TxDOT's administrative record.
7. On July 12, 2024, TxDOT responded to Plaintiffs' request that TxDOT supplement its administrative record with additional materials and TxDOT agreed to some of the requests and declined to add other documents, on the ground that those documents were not part of TxDOT's decision making process on the decisions challenged.
8. Plaintiffs filed an amended complaint on August 14, 2024, and no further amendments of pleadings are anticipated.
9. Defendant filed its first amended answer on August 28, 2024, in compliance with Federal Rule of Civil Procedure 15(a)(3).
10. Plaintiffs requested a second supplementation of TxDOT's administrative record on September 3, 2024.
11. TxDOT filed a supplement to its administrative record on September 4, 2024. That supplement addressed Plaintiffs' first request for supplementation but not the second request sent September 3, 2024.
12. Plaintiff will file a motion to further supplement TxDOT's administrative record within thirty days of TxDOT's September 11, 2024 response to Plaintiffs' second request for supplementation of TxDOT's administrative record, which is October 11, 2024.
13. Within 30 days of the Court's resolution of Plaintiff's motion to further supplement TxDOT's administrative record, TxDOT will file a second supplement which will include the documents identified in response to the September 3, 2024 request, and additional documents ordered by the Court, if any.

14. The parties agree that filing staggered cross-motions for summary judgment is the most efficient way to resolve the case. Because the administrative record must be defined before briefing can commence, the parties will confer to jointly propose, within fourteen days of the resolution of Plaintiffs' motion to further supplement TxDOT's administrative record if such motion is filed, a briefing schedule for resolution of the case. If no such motion to further supplement is filed, the parties will confer within 14 days of the deadline for filing such a motion. In addition, the proposal on dispositive motion deadlines will incorporate proposed deadlines for amendment or supplementation of pleadings or to join additional parties.

SIGNED on _____, 20____.

PRESIDING JUDGE

AGREED:

Rachel S. Doughty
Typed or Printed Name

Lisa McClain Mitchell
Typed or Printed Name

/s/ Rachel S. Doughty
Signature

/s/ Lisa McClain Mitchell
Signature

ATTORNEY FOR PLAINTIFFS

ATTORNEY FOR DEFENDANT